IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No. 1939 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01-09-2004 in W.P. No.15599 OF 2004 on the file of the High Court.)

Between:

National Academy of Agricultural Research Management rep.by its Acting Director Dr.T.Balaguru,
S/o Sh.Thangai Servai, R/o Flat No.203, 2nd Floor, Medha Towers, Radhakrishnanagar, Attapur Villge, Rajendranagar, HYderabad

..... APPELLANT

AND

1 The Commissioner, Employees Provident Funds Organisation,

Barkatpura, Hyderabad
2 The Asst.P.F.Commissioner (ENF) O/o The Regional Provident

Fund Commissioner, Barkatpura, Hyderabad.
3 The Appellate Authority, Employees Provident Fund, New Delhi

.....RESPONDENT(S)

Counsel for the Appellant: Mr.ARAJASHEKAR REDDY

SC FOR Central Govt.

Counsel for the Respondent No.: Mr.R.N. REDDY

The Court made the following :

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ORAL JUDGMENT: (per the Hon'ble the Chief Justice)

The appeal is against the order passed by the learned single Judge dated 1st September 2004 dismissing the writ petition. In the writ petition, the appellant questioned the very action of the respondents in issuing show cause notice dated 10th August 2004 being illegal and arbitrary.

On 10th August 2004, show cause notice was issued by the Enforcement Officer, Employees Provident Fund Organisation calling upon the appellant to submit monthly returns in Form 5, 10 and 12/12-A (Revised) under paras 36 and 38(2) of Employees Provident Fund Scheme, 1952 for the period from 1982-1983 to 1991-1992.

The grievance of the learned counsel for the appellant is that number of letters were addressed to the respondents to furnish details so as to enable the petitioner-appellant to furnish reply to the show cause notice. It is stated that in the proceedings under Section 7-A of the Employees Provident Funds & Miscellaneous Provisions Act, 1952, order was passed on 28th June 2001 determining a sum of Rs.7,82,808/- for the period from March 1982 to April 1992. Against the said order, appeal has been preferred, but in the meanwhile, the said amount of Rs.7,82,808/- has been realized. Assessment and realisation are subject matter of the appeal before the appellate authority, but the petitioner-appellant wants to make available to the petitioner break-up of the amount worked out by the respondents so as to enable the petitioner-appellant to furnish reply to the show cause notice after submitting revised returns. As per the petitioner-appellant, total payment to be made under various heads amounts only to Rs.2,52,547/-, since employees' share for the period from 1st March 1982 to 31st January 1988 has not been taken into consideration being exempted from payment vide Central Provident Fund Commissioner's letter

dated 8th November 1989. In the absence of details as to how the amount has been worked out, or whether exemption has been taken into consideration or not, it is not possible for the petitioner-appellant to submit reply to the show cause notice or revised returns.

There is no reason why the respondents could not furnish the details asked for. The petitioner-appellant is not a private organization, but a Central Government organization and there is no reason why it would unnecessarily delay in submission of the returns, which cannot be furnished without the details being supplied by the respondents as to the manner of the respondents in working out the amount.

Accordingly, we allow the appeal, set aside the impugned order, and we direct that the respondents will supply the requisite details requested by the petitioner-appellant in various letters addressed to the respondents within a period of four weeks from the date of receipt of a copy of this order, and within a period of four weeks thereafter, the petitioner-appellant will submit the requisite revised returns. Thereafter, it will be open for the respondents to pass appropriate orders in accordance with law. Till the expiry of the aforementioned period, no coercive steps will be taken against the petitioner-appellant.

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(DEVINDER GUPTA, C.J.)

25th November 2004.

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(M. NARAYANA REDDY, J.)

ARS

To

1 The Commissioner, Employees Provident Funds Organisation,

Barkatpura, Hyderabad
2 The Asst.P.F.Commissioner (ENF) O/o The Regional Provident

Fund Commissioner, Barkatpura, Hyderabad.
3 The Appellate Authority, Employees Provident Fund, New Delhi.

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